EX PARTE OR LATE FILED

BROOKS PIERCE, McLENDON, HUMPHREY & LEONARD, L.L.P.
ATTORNEYS AT LAW
RALEIGH, NORTH CAROLINA

ORIGINAL

MAILING ADDRESS
POST OFFICE BOX 1800
RALEIGH, N.C. 27602

OFFICE ADDRESS
SUITE 1600
FIRST UNION CAPITOL CENTER
150 FAYETTEVILLE STREET MALL
RALEIGH, N.C. 27601

TELEPHONE (919) 839-0300
FACSIMILE (919) 839-0304

WRITER'S DIRECT DIAL

(919) 834-9216
whargrove@brookspierce.com

April 3, 2003

RECEIVED

APR - 3 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20544

Re: *Ex* Parte Notification
MB Docket No. 02-277
MM Docket No. 01-235
MM Docket No. 01-317
MM Docket No. 00-244

Dear Ms. Dortch

This is an *ex parte* notification filed pursuant to Section 1.1206 of the Commission's Rules.

On April 1, 2003, David Barrett, President of Hearst-Argyle Television, Inc., and the undersigned met with Commissioner Martin and his legal assistant, Catherine Bohigian, Commissioner Adelstein and his advisor for media issues, Johanna Mikes, and Paul Gallant. Each person was provided with a copy of the testimony given by Hank Price, President and General Manager of WXII-TV, at the FCC Field Hearing held at Duke Law School on Monday, March 31, 2003, a copy of which is enclosed.

The purpose of the meeting was to discuss the local television ownership rule, the newspaper/ broadcast cross-ownership rule, and the national television ownership rule.

An original and one copy of this letter *are* being filed with the Secretary with additional copies delivered to each person who participated in the meetings.

No. of Copies rec'd 0
List ABCDE

76163.1

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Very truly yours,

Wade H. Hargrove

Wade H. Hargrove

Enclosure

WHH/bp

cc: Commissioner Kevin J. Martin
Commissioner Jonathan Adelstein
Catherine Bohigian
Johanna Mikes
Paul Gallant

Before the
Federal Communications Commission
Durham, North Carolina

Statement of Hank Price
WXII-TV, Winston-Salem

March 31, 2003

Good afternoon. My name is Hank Price. I am the President and General Manager of WXII-TV, a non-network owned NBC affiliate in Winston-Salem. WXII-TV is owned by Hearst-Argyle Television. I also am a senior fellow at Northwestern University's Media Management Center and teach senior executives from all media disciplines. We also offer an MBA in Media Management. During my 30 years in the television business, I have worked both for network-owned stations and non-network-owned stations.

I respectfully urge the Commission not to increase the 35% national television ownership cap. Since the national television networks are the companies most likely to buy up the nation's independently-owned television stations, it is important that the Commission carefully and thoughtfully assess the implications an increase in the cap would have on localism and local control of television programming.

My primary responsibility as the General Manager of WXII-TV is to serve the needs and interests of our local viewers. Our viewers can—and dc—call our station to make suggestions and express criticisms about our programming. And when they do, they speak with a decision-maker at the station who lives in and understands the community. More importantly, they can speak to the person authorized to respond to their concerns.

Unfortunately, that would not be the case were WXII-TV owned by a national television network. There is a fundamental difference in the way station managers at network-owned stations and non-network-owned stations make programming decisions. I know from personal experience.

In the late 1980s, I served as President and General Manager of WFMY-TV, a non-network-owned CBS affiliate in Greensboro. During that time, CBS announced that a movie was being turned into a weekly television series that would air Saturday nights at 8:00 pm. After viewing the pilot episode of the series, my staff and I concluded that the content would not be consistent with local community standard6 if broadcast early in the evening. I notified CBS that our station would not air the program unless changes were made. As it turned out, non-network-owned CBS affiliates in Nashville and Salt Lake City had raised similar objections to the program.

When word got out that several independently owned affiliates were not going to clear the program, I received a phone call from the program's Executive Producer, who, himself, was an independent producer, not an employee of the network. We discussed the program, and he asked how he could make it acceptable to our local viewers. I expressed our concerns, and to his credit, he made the changes. We then aired the program.

The point here is that CBS did not and would not take the initiative to modify the program. The changes in the program came as a direct result of "pusb-back" from the non-network-owned stations. And that underscores the importance of retaining multiple non-network owners of the nation's television stations whose success is tied to their responsiveness to local viewers. The issue is not whether the changes made in this particular and other programs were good or bad. The issue is whether the nation's TV viewers are better served by the "nationalization" of local television service.

Contrast that experience at WFMY-TV to my experience later when I became General Manger of WBBM-TV, a CBS network-owned station in Chicago. CBS in New York decided that all its owned and operated television stations would carry The Howard Stern Show. Over my strongest objections, the CBS executives told me that WBBM, as a network-owned station, must clear it.

In my opinion, Howard Stern's program was inappropriate in the time period specified by the network and would be offensive to our viewers. Indeed it was, and we received numerous complaints from viewers. Because I worked for the same company that owned the network, I did not have the right, even though I managed the local CBS station, to preempt and not clear a program the network had mandated be carried by the station. In short, program decisions for WBBM were made, as a matter of course, by

CBS network executive —not local station managers. These decisions are made for corporate reasons that may or may not have anything to do with the specific needs or interests of local viewers.

I cite this example not to take a shot at CBS or the networks, in general The networks operate excellent television stations, and the people who manage the networks are first-rate The problem is that the needs of local viewers and local program decision-making are subordinated to the national program objectives of the networks.

Before joining Hearst-Argyle Television and accepting management responsibilities for WXII-TV, I spoke with the company's top executives about my expectation that, as the station's General Manager, I could make local program decisions in consultation with our viewers. I asked them, point-blank, if they would support me in that respect. Hearst-Argyle's top executives not only pledged their support, they said they felt as strongly as I did about the importance of "localism" and the ability of local stations to be flexible and responsive to the specific standards, needs and interest of the viewers they serve. That is the case —not only for Hearst-Argyle's station in North Carolina — it is the case for all of its stations.

* * *

Back in 1934 when Congress was crafting the ground rules for the American broadcast system, the British, French and other western nations were developing national electronic communications policies with a "national"—not local—focus. But Congress, perhaps taking a cue from Robert Frost, chose a road less traveled. And that truly has made "all the difference." Congress created a broadcast system that is uniquely American and one rooted in the core principle of local control—a system where local stations, not third party national networks, are obligated to make program decisions that serve the specific needs and interests of their particular communities.

With that critical principle in mind, I urge the Commission to retain the 35% national network ownership cap. If you raise the cap, the networks will simply use their leverage to buy more stations, take away more control from local communities and centralize control of the nation's terrestrial broadcast system. I *ask* the question: What possible public policy could justify that result7 If economic efficiency is the answer, them the ultimate model of efficiency would be to allow a single company to own every television station in America. It is my hope that ***localism and the interests of local viewers—not economics***—will guide the Commission's decision.

Thank you.